

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE NEW YORK CITY	:	
DISTRICT COUNCIL OF CARPENTERS	:	
PENSION FUND, WELFARE FUND,	:	
ANNUITY FUND, AND APPRENTICESHIP,	:	
JOURNEYMAN RETRAINING,	:	21-CV-9465 (VSB) (SLC)
EDUCATIONAL AND INDUSTRIAL FUND,	:	
<i>et al.</i> ,	:	<b><u>ORDER</u></b>
	:	
Petitioners,	:	
	:	
- against -	:	
	:	
JAMES S. MITCHELL & SONS, INC.,	:	
	:	
Respondent.	:	
	:	
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VERNON S. BRODERICK, United States District Judge:

On November 16, 2021, Petitioners—Trustees of the New York City District Council of Carpenters Pension Fund, Welfare Fund, Annuity Fund, and Apprenticeship, Journeyman Restraining, Educational and Industry Fund; Trustees of the New York City Carpenters Relief and Charity Fund; The Carpenter Contractor Alliance of Metropolitan New York; and the New York City District Council of Carpenters—filed a petition to confirm an arbitration award (“Petition”) issued against Respondent James S. Mitchell & Sons, Inc. (“Respondent”), pursuant to Section 301 of the Labor Management Relations Act of 1947, 29 U.S.C. § 185, and for attorneys’ fees and costs incurred during the confirmation proceeding. (Doc. 1.) On that same day, Petitioners filed a memorandum of law in support of their Petition. (Doc. 5.) The Petition was served on November 19, 2021. (Doc. 7.) Respondent failed to oppose the Petition, request additional time to oppose the Petition, or appear in this action.

On January 19, 2022, Petitioners requested that I review the Petition as an unopposed motion for summary judgment. (Doc. 8.) *See also D.H. Blair & Co., Inc. v. Gottdiener*, 462 F.3d 95, 109–10 (2d Cir. 2006). On January 20, 2020, I referred this case to Magistrate Judge Sarah L. Cave for a report and recommendation on the Petition. (Doc. 9.) On January 21, 2022, Magistrate Judge Cave granted the request to treat the Petition as an unopposed motion for summary judgment. (Doc. 10.)

On June 9, 2022, Magistrate Judge Cave issued her Report and Recommendation, recommending that the Petition to confirm the arbitration award be granted. (Doc. 13.) She specifically recommended that judgment be entered in favor of Petitioners in the amount of \$4,204.50, consisting of the award amount of \$2,900, \$1,227.50 in attorneys’ fees and \$77 in costs; that Respondent be directed to submit to Petitioners their books and records from July 1, 2018 to the present for purposes of conducting an audit; and that Petitioners be awarded post-judgment interest in accordance with 28 U.S.C. § 1961. (*Id.*) Neither Petitioners nor Respondent filed objections to the Report and Recommendation or requested additional time to file an objection.

In reviewing a magistrate judge’s report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to a report and recommendation within 14 days of being served with a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews de novo the parts of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). When neither party submits an objection to a report and recommendation, or any portion thereof, a district court reviews the report and

recommendation for clear error. *See, e.g., Santana v. Comm’r of Soc. Sec.*, No. 17-CV-2648, 2019 WL 2326214, at \*1 (S.D.N.Y. May 30, 2019); *Marte v. Berryhill*, No. 17-CV-3567, 2018 WL 5255170, at \*1 (S.D.N.Y. Oct. 22, 2018); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

Here, although the Report and Recommendation explicitly provided that the parties “shall have fourteen (14) days (including weekends and holidays) from service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,” (Doc. 13, at 17), neither party filed an objection or sought additional time to file an objection. I therefore reviewed Magistrate Judge Cave’s thorough and well-reasoned Report and Recommendation for clear error and, after careful review, found none.

Accordingly, I ADOPT the Report and Recommendation in its entirety. The Petition is granted, and the arbitration award is confirmed. Petitioners are awarded \$4,204.50, consisting of the award amount of \$2,900, plus \$1,227.50 in attorneys’ fees and \$77 in costs, and post-judgment interest in accordance with 28 U.S.C. § 1961. Respondent is further ordered to submit to Petitioners their books and records from July 1, 2018 to the present for purposes of conducting an audit.

The Clerk’s Office is respectfully directed to terminate any open motions, to enter judgment in accordance with this Order, and to close this case.

SO ORDERED.

Dated: October 21, 2024  
New York, New York

A handwritten signature in black ink, reading "Vernon S. Broderick". The signature is written in a cursive, flowing style.

Vernon S. Broderick  
United States District Judge